

Message Text

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ACTION NEA-10

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-05 H-01 INR-07
L-03 NSAE-00 NSC-05 PA-01 PRS-01 SP-02 SS-15
USIA-06 AID-05 OMB-01 TRSE-00 /063 W
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R 231257Z NOV 77
FM AMEMBASSY NEW DELHI
TO SECSTATE WASHDC 7525
INFO AMEMBASSY COLOMBO
AMEMBASSY ISLAMABAD
RUMJD
XAMEMBASSY DACCA 6997
AMEMBASSY KABUL
AMEMBASSY KATHMANDU
AMCONSUL BOMBAY
AMCONSUL CALCUTTA
AMCONSUL MADRAS
CINCPAC

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CINCPAC FOR POLAD

E.O. 11652: N/A
TAGS: PINT, IN
SUBJECT: MRS. GANDHI AND THE SHAH COMMISSION

REF: NEW DELHI 16506

SUMMARY: MRS. GANDHI FACED A NO-WIN PROPOSITION WHEN
CONFRONTED WITH THE PROSPECT OF APPEARING BEFORE
THE SHAH COMMISSION. SHE COUCHED THE STATEMENT SHE
SUBMITTED TO EXPLAIN HER NON-APPEARANCE IN LEGAL
TERMS, BUT IT WAS SEEN AS A POLITICAL MOVE ON HER
PART, AN UNSUCCESSFUL ONE AT THAT. SHE CONTINUES
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TO BE UNREPENTANT ABOUT THE EMERGENCY, AND HER
ATTACKS ON THE DESAI GOVERNMENT FOR WHAT SHE
ALLEGES IN HER STATEMENT ARE ITS UNDEMOCRATIC
MOVES HAVEN'T HELPED HER. JUSTICE SHAH HAS BEEN
MODERATE AND CAREFUL IN SEEKING TO REBUT HER LEGAL
POINTS. HE WILL RESUME HIS ENQUIRY IN EARLY
DECEMBER AND MORE EVIDENCE DAMAGING TO MRS.

GANDHI SEEMS CERTAIN TO EMERGE. WHAT HAS ALREADY BEEN REVEALED HAS SERIOUSLY HURT HER. END SUMMARY.

1. ALTHOUGH SHE COUCHED HER EXPLANATORY STATEMENT IN LEGAL TERMS, MRS. GANDHI'S REFUSAL TO APPEAR BEFORE THE SHAH COMMISSION ON NOVEMBER 21 (REFTEL), HAS INEVITABLY BEEN SEEN AS ANOTHER POLITICAL MOVE ON HER PART, AND AN UNSUCCESSFUL ONE AT THAT. ADMITTEDLY, SHE FACED A NO-WIN PROPOSITION IN WHATEVER COURSE SHE HAD TAKEN. HAD SHE APPEARED, SHE WOULD HAVE BEEN SUBJECTED TO TOUGH AND POTENTIALLY DAMAGING QUESTIONING BY JUSTICE SHAH. YET, BUT DECLINING TO APPEAR, MRS. GANDHI WAS SEEN IMPLICITLY TO ADMIT THAT SHE HAS SOMETHING TO HIDE FROM THE COMMISSION -- OR AT LEAST THAT SHE FEARS THE KIND OF QUESTIONING SHE WOULD HAVE RECEIVED.

2. THE TOUGH AND DEFIANT TONE OF MRS. CHAND'S LENGTHY (17 PAGE) STATEMENT, PARTICULARLY HER PROFESSIONS OF INNOCENCE IN SEVERAL CASES IN WHICH WITNESSES HAD LINKED HER TO ABUSES OF POWER, ONCE AGAIN DEMONSTRATES HER TOTALLY UNREPENTANT ATTITUDE TOWARD HER PAST ACTIONS, AN ATTITUDE THAT HAS DOMINATED HER SPEECHES AND INTERVIEWS FOR THE PAST SEVERAL MONTHS. EDITORIALS IN SEVERAL LIMITED OFFICIAL USE

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NEWSPAPERS HAVE DESCRIBED HER NON-APPEARANCE AS LIKELY TO FURTHER DAMAGE HER IMAGE IN THE PUBLIC

MIND, AND COMMENTED THAT THE ECI RESULT WILL ONLY BE A RELIEF FROM HAVING TO TESTIFY. EXAMPLE: THE USUALLY MODERATE "THE HINDU" CONCLUDED THAT MRS. GANDHI'S "DEMAGOGIC AND INTEMPERATE ATTACK" WAS A "DEPLORABLE AFFRONT" TO THE SHAH COMMISSION WHICH REVEALED HER TO BE IN A POSITION OF "DESPERATE POLITICAL WEAKNESS." IT STRIKES US THAT MRS. GANDHI'S EFFORTS IN HER STATEMENT TO ATTACK THE JANATA GOVERNMENT FOR ITS ALLEGEDLY UNDEMOCRATIC ACTIONS WILL BE GREETED WITH DISBELIEF AND INCREDULITY BY THE PUBLIC AT LARGE, SINCE THEY ONLY REMIND PEOPLE OF THE MISDEEDS AND EXCESSES OF HER OWN REGIME.

3. IN A CAREFULLY AND MODERATELY WORDED REJOINER, JUSTICE SHAH SOUGHT TO REBUT HER ARGUMENT THAT THE COMMISSION'S PROCEEDINGS AMOUNTED TO "CHARACTER ASSASSINATION" WITHOUT THE MEANS TO DEFEND HERSELF. EXPLAINING HIS MODUS OPERANDI, SHAH STATED THAT THE CURRENT PHASE OF HIS INQUIRY WAS NOT THE PROPER TIME

TO RAISE SUCH QUESTIONS. HIS PURPOSE AT THIS STATE
WAS TO ASCERTAIN "WHETHER EXCESSES HAVE BEEN
COMMITTED". IF HE DETERMINED THAT THE DECLARATION
OF THE EMERGENCY ITSELF WAS AN "EXCESS", HE WOULD
PROCEED TO THE SECOND PHASE OF HIS INQUIRY, WHICH
WOULD SEEK TO FIX RESPONSIBILITY FOR THIS EXCESS.
SHAH RULED THAT ONLY AT THAT POINT WOULD HE ALLOW
PERSONS WHOSE REPUTATIONS
WERE LIKELY TO BE AFFECTED
TO DEFEND THEMSELVES BY BEING REPRESENTED BY COUNSEL,
AND GIVEN THE OPPORTUNITY TO INTRODUCE EVIDENCE
AND CROSS-EXAMINE WITNESSES. HE ALSO MADE IT CLEAR
THAT IN THIS SECOND PHASE OF HIS INQUIRY HE WOULD
ISSUE SUMMONS TO THOSE WHO REFUSED TO APPEAR BEFORE HIM.
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INFO AMEMBASSY COLOMBO
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4. SHAH GIVES EVERY INTENTION OF IGNORING MRS. GANDHI'S ATTACK AND OF PROCEEDING WITH HIS INQUIRY IN THE DELIBERATE AND EDICIOUS MANNER WHICH HAS EARNED HIM HIGH PRAISE AND RESPECT. HIS MEASURED AND BALANCED RESPONSE TO MRS. GANDHI'S STATEMENT APPEARS EFFECTIVELY TO REBUT HER LEGAL ARGUMENTS. ALTHOUGH SHE MIGHT SEEK TO PRESS HER CASE AGAINST TESTIFYING BEFORE THE COMMISSION BY SEEKING AN INJUNCTION FROM A HIGH COURT, IT SEEMS MORE LIKELY THAT HER ALLEGATIONS WILL ONLY POSTPONE THE EVENTUAL DAY OF RECKONING WHEN SHE WILL BE COMPELLED TO LIMITED OFFICIAL USE

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TESTIFY. AS PREVIOUSLY SCHEDULED, JUSTIF RHAH ADJOURNED THE HEARINGS ON NOVEMBER 21, AND WHEN HE RESUMES DECEMBER 5, HE IS LIKELY TO CONTINUE CALLING MRS. GANDHI'S FOMER CABINET MINISTERS AND ASSOCIATES FOR FURTHER TESTIMONY DAMAGING TO THE EX-PM. MRS. GANDHI HERSELF SAID IN HER NOVEMBER 21 STATEMENT THAT SHE WOULD APPEAR BEFORE THE COMISSION ONLY IF AND WHEN ITS PROCEEDINGS WERE CONDUCTED "IN ACCORDANCE WITH LAW". THIS HAS BEEN INTERPRETED AS MEANING THAT SHE WOULD INSIST ON HAVING COUNSEL, AND ON HAVING THE RUOHT TO INTRODUCE HER OWN EVIDENCE AND CROSS-EXAMINE WITNESSES.

5. IT IS APPARENT THAT THE DAILY REVELATIONS BEING PRODUCED BEFORE THE SHAH COMISSION ARE EXTREMELY DAMAGING TO MRS. GANDHI. THE PUBLIC IS BEING TREATED TO CONTINUING DISCLOSURES OF CORRUPTION, ABUSE OF POWER AND ARBITRARINESS IN HIGH PLACES. THE PRESS DEVOTES WHOLE PAGES TO THE HEARINGS AND DESCRIBES THE MOST SENSATIONAL REVELATIONS IN BANNER HEADLINES. WHILE IN SESSION, THE COMMISSION HEARINGS ARE ALSO THE SUBJECT OF A DAILY TELEVISION SPECIAL REPORT IN PRIME EVENING VIEWING TIME. IT IS INEVITABLE THAT WITH THE CURRENT LEVEL OF PUBLICITY GIEN TO THE PROCEEDINGS THE IMPACT OF THE DISCLOSURES WILL ALSO FILTER DOWN TO THE RURAL AREAS. ONE OF THE MOST STRIKING ASPECTS OF THE EMERGENCY WHICH HAS BEEN REVEALED TO PUBLIC VIEW IS THE FACT THAT ITS "EXCESSES" AND MISUSES OF POWER TOUCHED ALL LEVELS OF SOCIETY, FROM THE FAMILIES OF MINOR GRADE CIVIL SERVANTS TO THE HIGHLY REGARDED WIDOWS OF INDIA'S MOST POWERFUL EX-MAHARAJAS. ALTHOUGH MRS. GANDHI HAS BEEN IMPLICATED BY FORMER ASSOCIATES

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IN SEVERAL INSTANCES OF ABUSES OF POWER, IT IS
LIKELY THAT THE MOST DAMNING TESTIMONY AGAINST HER
WILL COME UP WHEN THE COMMISSION RESUMES ITS HEARINGS
IN DECEMBER: JUSTICE SHAH HAS SAID THAT AT THAT
TIME HE WILL INVESTIGATE THE CIRCUMSTANCES SURROUNDING
THE DECLARATION OF THE EMERGENCY TO DETERMINE IF
THAT IN ITSELF WAS AN "EXCESS".
GOHEEN

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Message Attributes

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